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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/557,047	04/21/2000	David J. Marsh	MSI-537US	7246
22801	7590	02/12/2004	EXAMINER	
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			BOCCIO, VINCENT F	
			ART UNIT	PAPER NUMBER
			2615	6

DATE MAILED: 02/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/557,047

Applicant(s)

MICROSOFT

Examiner

Vincent F. Boccio

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5. 6) ☐ Other: _____

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 8-9, 17, 23 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Browne et al. (WO 92/22983).

Regarding claims 1, 9, 17 and 25, Browne discloses and meets the limitations associated with a method and corresponding apparatus (Fig. 1), the method comprising:

- automatically selecting, by an "intelligent content agent", a candidate program or programs to record ("Neural Network 114", Fig. 14, "interesting 1411 & uninteresting 1412", page 13, lines 1-);
- recording content associated with the selected candidate program (page 13, "FIFO buffer 104 c"); and
- selectively identifying the recorded content within a time dependent buffer arrangement (met by controlling the storage based on a time and/or other criteria, such as shown in Fig. 3, "ERASE OLDEST PROGRAMS" or even "ERASE OLDEST VIEWED PROGRAMS", meeting the limitation of selectively identifying content within a time dependent buffer arrangement (meeting the limitation of providing a selectively arranged sequence for erasure), based on automatic program erasure based on allocated space or a storage capacity condition, page 25, Figs. 3 {Program Erasure}, 6 {VIEWED} & 14 {1411 & 1412} etc.....), wherein a computer readable medium having computer executable instructions for performing the steps in the system (met by Brown, Fig. 1, "NEURAL NETWORK", "Controller 105", being a microprocessor controlling the system, with code, being computer executable, page 13).

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Regarding claims 8 and 16, Browne meets the limitation of selectively identifying the recorded content within the time dependent buffer arrangement with a permanent storage buffer arrangement (met by either of the two options, "ERASE Oldest VIEWED" or "Selected", programs for erasure, Fig. 3).

Regarding claim 23, Browne further meets the limitation of providing a means to selectively move recorded content to a permanent storage buffer arrangement from the time dependent buffer arrangement (Fig. 1, such as "optional storage 104 b" or other offloading to other media).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 2-7, 10-16 and 18-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Browne et al. (WO 92/22983) in view of Wood et al. (US 6,324,338).

Regarding claim 2, Browne discloses a means thru a NEURAL Network, based on generated user parameters to dictate auto-recording based on user inputs or habits (page 13, Fig. 3, "SET

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Recording Criteria", such as "Monitor Viewer" and/or Fig. 14, "Interesting/Uninteresting", user inputs to teach the NEURAL Network, as disclosed),

but, fails to particularly disclose the utilization of scanning an EPG (or a bubble agent), based on definable user parameters criteria to identify a program or programs, based on user parameters.

Wood teaches in Figs. 1-6, and col. 2 etc., that a channel guide database, which meets the limitation of an Electronic Program Guide or EPG (or a Bubble Agent), which is scanned or utilized in combination with established user preferences (104), thru a Fuzzy Logic means (Fig. 3, "305"), to locate matches (steps "301 and 305" also Fig. 2 for one show), based on established user preferences (col. 4-, "criteria database 104", multiple ways of establishing or to generate the database), as taught by Wood.

Therefore, it would have been obvious to one skilled in the art at the time of the invention to modify Browne by incorporating scanning an EPG based on an established user selection criteria and further all techniques of establishing user preferences, as taught by Wood in order to facilitate selection of shows, as Browne does, as taught by Wood.

Regarding claim 3, the combination further discloses maintaining a database for more than one user (Browne page 26, "a plurality of password", handling more than one user, "neural network .. will perform analysis for each user individually", "determining desired programs will thus be appropriate for each user").

Regarding claim 4, the combination as applied further meets the limitation of monitoring user activities associated with recorded content and modifying the definable user selection based on monitoring the user (Fig. 3, "monitor Viewing", which is considered to include viewing by reproducing or other), also monitoring user activities also reads on monitoring user inputs of the interesting/uninteresting buttons.

Further Wood teaches various user parameter capturing, thereby creating a database for users to establish and develop user profile, used to determine programs of interest (col. 6, "viewing habits", "user's answers to the ... questions"), etc., which are all obvious to utilize, as is obvious to one or ordinary skilled in the art.

Regarding claim 2, the combination as applied further meets the limitations of recording a plurality of the recorded content within the time dependent buffer arrangement, wherein the plurality of the recorded content is in an initial time order

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sequence (see Browne, Fig. 3, "program Erasure", "ERASE OLDEST PROGRAMS (FIFO)");

wherein selective rearranging the initial time order sequence of the plurality of the recorded content to produce a modified time ordered sequence within the time dependent buffer arrangement (met by Browne, which upon modifying the "Program Erasure Parameters", such as from FIFO to "ERASE OLDEST VIEWED PROGRAMS", the criteria or order of erasure is modified, based on "Viewed Criteria", or even manually selecting a program or even programs to erase among other recorded programs, which clearly do not have to be recorded sequentially or even viewed or even erased sequentially, therefore, rearranging the erasure sequence, based on viewing or even manually selecting program to erase when space is needed, as disclosed).

Regarding claims 6-7, the combination further meets the limitation of wherein the initial time order sequence or a series of recorded programs, is and can be automatically rearranged based on a comparison of the content with at least a portion of the user definable content (reads on the condition acknowledgement that programs have been viewed, user inputs associated with Fig. 3, "PROGRAM ERASURE Parameters", the system automatically based on that criteria would erase automatically when required automatically select programs that have been designated by the user or even viewed by the user), and a modified or rearranged erase is accomplished, which a program or programs, will be erased as required when space is needed (Browne, Fig. 3, "ERASE ONLY SELECTED PROGRAMS", "ERASE OLDEST VIEWED PROGRAMS" and wherein the FIFO only erases based on oldest, which these settings or user parameters can be modified any time a user decides to modify or as desired), thereby meeting the limitations of a means for rearranging the content in this case for the purpose of deciding which programs are erased first, second and so on as space is required for newly received recording events which can be accomplished thru the automatic means of a user profile dictating the sequence for erasure or to make space as required.

Claims 10-15 and 18-22 have been analyzed and discussed with respect to the claims above.

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5. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Browne et al. (WO 92/22983) in view of Sumita et al. (US 6,581,207).

Regarding claim 24, Browne discloses a means to perform auto recording based on an established user profile, but, fails to disclose the feature of examining closed caption (considered to be TEXT, such as provided in the VBI for example), during recording of the candidate program to determine if the candidate program significantly matches a specific user criteria.

In other work an additional evaluation during recording to determine if the initially selected program significantly matches a user's profile.

Sumita teaches in cols. 7-10, performing an auto-recording function based on an established user profile initially from a "rough filtering on the basis of an EPG", col. 8, line 51-

wherein after starting recording the system further evaluates to determine to set a flag which at the end for example the program is either maintained or erased based on the flag col.. 9, line 1-24,

wherein the decision to set the flag can be accomplished thru speech recognition, telops that appear at the bottom of the TV screen, even recognizing music, col. 10 etc....., as taught by Sumita.

It is noted that Sumita does teach the process of further evaluation during recording, in order to decide that when auto-selected programs, dictating erasure or not and also noted that Sumita fails to particularly disclose the utilization of closed caption data, provided conventionally in the VBI area of video programs from a broadcaster, which is decoded and provided to the user as caption text superimposed on the screen for the hard of hearing, as is well known to those skilled in the art.

The examiner takes official notice that closed caption TEXT to be decoded and superimposed with the video program, is well known and is considered to be obvious to recognize speech or closed caption text, in view of the correspondence between the closed caption and dialog are the same, therefore, one of ordinary skill in the art at the time of the invention with Browne and Sumita in front of them selves and the knowledge of one of ordinary skill would considered to be an obvious to utilize the provided closed caption text, would be obvious over speech recognition and converting to text, in order to provide the same function/feature of, "an additional evaluation step to determine to maintain or erase programs", initially set for recording, as taught by Sumita, as is deemed obvious to one skilled in the art.

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Contact Fax Information

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 872-9314, (for formal communication intended for entry)

or:

(703) 308-5359, (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).


Contact Information

1. Any inquiry concerning this communication or earlier communications should be directed to the examiner of record, Monday-Thursday, 8:00 AM to 5:00 PM Vincent F. Boccio (703) 306-3022.

If any attempts to reach the examiner by telephone are unsuccessful, the examiners supervisor, Andy Christensen (703) 308-9644.

Any inquiry of a general nature or relating to the status of this application should be directed to Customer Service (703) 306-0377.

Primary Examiner, Boccio, Vincent
2/7/04


VINCENT BOCCIO
PRIMARY EXAMINER